

108TH CONGRESS
2D SESSION

H. R. 4226

AN ACT

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recording of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

108TH CONGRESS
2D SESSION

H. R. 4226

AN ACT

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as “Cape Town Treaty Imple-
3 mentation Act of 2004”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The Cape Town Treaty (as defined in sec-
7 tion 44113 of title 49, United States Code) extends
8 modern commercial laws for the sale, finance, and
9 lease of aircraft and aircraft engines to the inter-
10 national arena in a manner consistent with United
11 States law and practice.

12 (2) The Cape Town Treaty provides for inter-
13 nationally established and recognized financing and
14 leasing rights that will provide greater security and
15 commercial predictability in connection with the fi-
16 nancing and leasing of highly mobile assets, such as
17 aircraft and aircraft engines.

18 (3) The legal and financing framework of the
19 Cape Town Treaty will provide substantial economic
20 benefits to the aviation and aerospace sectors, in-
21 cluding the promotion of exports, and will facilitate
22 the acquisition of newer, safer aircraft around the
23 world.

24 (4) Only technical changes to United States law
25 and regulations are required since the asset-based fi-
26 nancing and leasing concepts embodied in the Cape

1 Town Treaty are already reflected in the United
2 States in the Uniform Commercial Code.

3 (5) The new electronic registry system estab-
4 lished under the Cape Town Treaty will work in tan-
5 dem with current aircraft document recordation sys-
6 tems of the Federal Aviation Administration, which
7 have served United States industry well.

8 (6) The United States Government was a leader
9 in the development of the Cape Town Treaty.

10 (b) PURPOSE.—Accordingly, the purpose of this Act
11 is to provide for the implementation of the Cape Town
12 Treaty in the United States by making certain technical
13 amendments to the provisions of chapter 441 of title 49,
14 United States Code, directing the Federal Aviation Ad-
15 ministration to complete the necessary rulemaking proc-
16 esses as expeditiously as possible, and clarifying the appli-
17 cability of the Treaty during the rulemaking process.

18 **SEC. 3. RECORDATION OF SECURITY INSTRUMENTS.**

19 (a) ESTABLISHMENT OF SYSTEM.—Section 44107(a)
20 of title 49, United States Code, is amended—

21 (1) in paragraph (2)(A) by striking “750” and
22 inserting “550”; and

23 (2) in paragraph (3) by striking “clause (1) or
24 (2) of this subsection” and inserting “paragraph (1)
25 or (2)”.

1 (b) INTERNATIONAL REGISTRY.—Section 44107 of
2 such title is amended by adding at the end the following:

3 “(e) INTERNATIONAL REGISTRY.—

4 “(1) DESIGNATION OF UNITED STATES ENTRY
5 POINT.—As permitted under the Cape Town Treaty,
6 the Federal Aviation Administration Civil Aviation
7 Registry is designated as the United States Entry
8 Point to the International Registry relating to—

9 “(A) civil aircraft of the United States;

10 “(B) an aircraft for which a United States
11 identification number has been assigned but
12 only with regard to a notice filed under para-
13 graph (2); and

14 “(C) aircraft engines.

15 “(2) SYSTEM FOR FILING NOTICE OF PROSPEC-
16 TIVE INTERESTS.—

17 “(A) ESTABLISHMENT.—The Adminis-
18 trator shall establish a system for filing notices
19 of prospective assignments and prospective
20 international interests in, and prospective sales
21 of, aircraft or aircraft engines described in
22 paragraph (1) under the Cape Town Treaty.

23 “(B) MAINTENANCE OF VALIDITY.—A fil-
24 ing of a notice of prospective assignment, inter-
25 est, or sale under this paragraph and the reg-

1 istration with the International Registry relat-
2 ing to such assignment, interest, or sale shall
3 not be valid after the 60th day following the
4 date of the filing unless documents eligible for
5 recording under subsection (a) relating to such
6 notice are filed for recordation on or before
7 such 60th day.

8 “(3) AUTHORIZATION FOR REGISTRATION OF
9 AIRCRAFT.—A registration with the International
10 Registry relating to an aircraft described in para-
11 graph (1) (other than subparagraph (C)) is valid
12 only if (A) the person seeking the registration first
13 files documents eligible for recording under sub-
14 section (a) and relating to the registration with the
15 United States Entry Point, and (B) the United
16 States Entry Point authorizes the registration.”.

17 **SEC. 4. REGULATIONS.**

18 (a) IN GENERAL.—The Administrator of the Federal
19 Aviation Administration shall issue regulations necessary
20 to carry out this Act, including any amendments made by
21 this Act.

22 (b) CONTENTS OF REGULATIONS.—Regulations to be
23 issued under this Act shall specify, at a minimum, the re-
24 quirements for—

1 (1) the registration of aircraft previously reg-
2 istered in a country in which the Cape Town Treaty
3 is in effect; and

4 (2) the cancellation of registration of a civil air-
5 craft of the United States based on a request made
6 in accordance with the Cape Town Treaty.

7 (c) EXPEDITED RULEMAKING PROCESS.—

8 (1) FINAL RULE.—The Administrator shall
9 issue regulations under this section by publishing a
10 final rule by December 31, 2004.

11 (2) EFFECTIVE DATE.—The final rule shall not
12 be effective before the date the Cape Town Treaty
13 enters into force with respect to the United States.

14 (3) ECONOMIC ANALYSIS.—The Administrator
15 shall not be required to prepare an economic anal-
16 ysis of the cost and benefits of the final rule.

17 (d) APPLICABILITY OF TREATY.—Notwithstanding
18 parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, of the
19 Code of Federal Regulations, Articles IX(5) and XIII of
20 the Cape Town Treaty shall apply to the matters described
21 in subsection (b) until the earlier of the effective date of
22 the final rule under this section or December 31, 2004.

1 **SEC. 5. LIMITATION ON VALIDITY OF CONVEYANCES,**
 2 **LEASES, AND SECURITY INSTRUMENTS.**

3 Section 44108(c)(2) of title 49, United States Code,
 4 is amended by striking the period at the end and inserting
 5 “or the Cape Town Treaty, as applicable.”.

6 **SEC. 6. DEFINITIONS.**

7 (a) IN GENERAL.—Chapter 441 of title 49, United
 8 States Code, is amended by adding at the end the fol-
 9 lowing:

10 **“§ 44113. Definitions**

11 “In this chapter, the following definitions apply:

12 “(1) CAPE TOWN TREATY.—The term ‘Cape
 13 Town Treaty’ means the Convention on Inter-
 14 national Interests in Mobile Equipment, as modified
 15 by the Protocol to the Convention on International
 16 Interests in Mobile Equipment on Matters Specific
 17 to Aircraft Equipment, signed at Rome on May 9,
 18 2003.

19 “(2) UNITED STATES ENTRY POINT.—The term
 20 ‘United States Entry Point’ means the Federal
 21 Aviation Administration Civil Aviation Registry.

22 “(3) INTERNATIONAL REGISTRY.—The term
 23 ‘International Registry’ means the registry estab-
 24 lished under the Cape Town Treaty.”.

1 (b) CONFORMING AMENDMENT.—The analysis for
2 such chapter is amended by adding at the end the fol-
3 lowing:

“44113. Definitions.”.

4 **SEC. 7. EFFECTIVE DATE AND PRESERVATION OF PRIOR**
5 **RIGHTS.**

6 This Act, including any amendments made by this
7 Act, shall take effect on the date the Cape Town Treaty
8 (as defined in section 44113 of title 49, United States
9 Code) enters into force with respect to the United States
10 and shall not apply to any registration or recordation that
11 was made before such effective date under chapter 441
12 of such title or any legal rights relating to such registra-
13 tion or recordation.

Passed the House of Representatives June 22, 2004.

Attest:

Clerk.